

S.B. Criminal Misc. Bail Application No.3168/2006

Date : 01.08.2006

HON'BLE MR. SATYA PRAKASH PATHAK, J.

Mr. Sandeep Mehta, for the applicant.

Mr. V.R. Mehta, Public Prosecutor.

Mr. J.S. Choudhary for complainant.

The accused applicant, who is charged with the offence punishable under Sec. 498A and 304B IPC has filed the present bail application under Section 439 of the Cr.P.C. for his release on bail.

Heard learned counsel for the parties and perused the material available on record.

Learned counsel for the applicant has contended that allegations under Sections 498A and 304B IPC are absolutely false for the reason that the deceased was mentally not sound and she had gone out of her father's house and sat on railway track. In this connection, learned counsel

drew my attention to a letter written by the Station Master on 04.04.2006. He submits that ration card etc go to show that the applicants were living separately and it is another report which was lodged on 23.04.2006 signed by the father of the deceased as well as Ganpat, the father-in-law of the deceased wherein it was stated that she had gone somewhere and did not come back. Learned counsel drew my attention to several statements recorded in this case and tried to convince that it is a case where as far as the applicants are concerned, no case is made out against them regarding demand of dowry. He further submits that the deceased was found in well and the injuries found on her body resulted on account of falling in the well. In last, he prays that it is a case where the applicants should be enlarged on bail.

On the other hand, learned Public Prosecutor and learned counsel for the complainant opposed the bail application and submitted that factum of death of the prosecutrix was not natural is proved by perusal of post-mortem report, available at Page No.33 of the charge-sheet.

According to learned counsel, it has been specifically opined in the post-mortem report that the injuries found on the head and thigh of the deceased were ante-mortem in nature. It has further been submitted that had there been the case of simple suicide then, since she was found in well, in post-mortem report, water would have been found in stomach of the deceased, but no water was found. He also submitted that statements recorded during the investigation, show that there was demand of dowry and before 4-5 days, she had telephoned to her parents wherein it was specifically communicated that in case demand of dowry is not fulfilled, she would be killed. In last, he submits that in view of above, prima facie, allegations are not baseless.

I have considered the submissions made before me.

Taking into consideration overall facts and circumstances of the case, prima facie, I am of the opinion that in the instant case, since dead body of the deceased was found in a well and the post-mortem report clearly mentions

that injuries on the body of the deceased were in ante-mortem in nature and no water was found in stomach of the deceased, possibility that before throwing in the well, she was not alive cannot be ruled out.

Be that as it may, without expressing any opinion on the merit of the case as the same ch may prejudice the case of either side, since not only one but number of statements recorded of the witnesses make mention of demand of dowry, I do not find it a fit case for grant of bail to the applicant.

Accordingly, the bail application stands rejected.

(SATYA PRAKASH PATHAK), J.

vijayant